

### III. REMARKS

Claim 1 is amended. Claims 3 and 7-11 are withdrawn from consideration. Applicant appreciates the indication of allowable subject in claims 2, 5 and 6 but submits that the claims are patentable as amended.

Claims 1 and 4 are patentable over Blake, U.S. Patent No. 5,281,220 under 35 U.S.C. 102. Blake fails to disclose or suggest that movement of the first and second lever members between the first and second positions, relative to the finger loop, causes the same operation of medical device.

In Blake, the device is structurally configured so that it is operated using a stationary hand grip (32), a moveable hand lever (40) and a slide member (66) including a finger loop (68) (Col. 1, L. 38-65). The moveable hand lever (40) is pivotally attached to the housing at a pivot axis (42) (Col. 2, L. 65-67) while the slide member (66) moves or slides longitudinally along the tube (16) (Col. 3, L. 41-58). The moveable hand lever (40) and the slide member (66) do not perform the same operation of the medical device as recited by Applicant.

In Blake, the scissor blades (48) are opened and closed by operating the moveable hand lever (40). The moveable hand lever (4) is attached to the linkage (18), which manipulates the operating components (i.e. the scissor blades (48)). A squeeze of the handle produces a pull on the linkage (18) closing the blades (48) while opening the handle (40) opens the blades (48). (Col. 2, L. 68 - Col. 3, L. 5). To the contrary, the slide member (66) does not open and close the blades (48) but rather rotates the tube (16). Thus, the moveable hand lever (40) and

the slide member (66) perform different operations of the medical device in Blake.

In addition, if the handle assembly (14) is rotated about the axis of the tube (16) so that the associated rotation of the movable lever (40) about the tube (16) rotates the blades, the operation of the lever (40) and the slide member (66) is still not the same as that claimed by Applicant. Applicant's claim 1 recites that movement of the first and second lever members between the first and second positions, relative to the finger loop, causes the same operation of medical device. In the case where the handle assembly (14) of Blake is rotated about the axis of the tube, the relationship between the movable lever (40) and the stationary grip (32) remains the same (i.e. there is no relative movement between the two). This is not what is claimed by Applicant. Applicant recites "movement" "relative to the finger loop". Thus, for this additional reason operation of the movable lever (40) and the slide member (66) do not operate the device in the same manner as recited by Applicant.

There is simply no disclosure or suggestion in Blake that manipulation of the first and second lever members causes the same operation of medical device. Thus, claim 1 is patentable over Blake for at least this reason.

Further, Applicant reasserts all of its arguments from its prior responses in that the structure of the device in Blake is not the same as that recited in Applicant's claim 1 as evidenced by the fact that Blake cannot be operated the same way. These prior arguments are incorporated by reference herein in their entirety.

In the Advisory action the Examiner argues that loop (44) of Blake is the finger loop and as such the operator will be able to

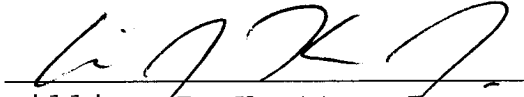
reposition the other fingers between the first (32) and second (66) lever members. In the Examiner's argument the users thumb would have to be located in the loop (44) which would place all of the users remaining fingers in the proximity of slide member (66) and hand grip (32). Moving the user's fingers between the slide member (66) and the hand grip (32) does not change the hand posture of the user as the orientation of the device remains the same in the user's hand regardless of which of the user's fingers are in loop (68) of the slide member or loop (34) of the hand grip (i.e. the tip of the medical device will always point parallel to the user's forearm and hand). This is not the same as the apparatus claimed by the Applicant. Claim 1 recites that repositioning of "the other fingers between the first and second lever members with rotation of the finger within the finger loop while operating the medical device with the finger within the finger loop" "assures a comfortable hand posture throughout the complete range of operation of the medical device". The device in Blake can only be operated through one hand posture (e.g. with the tube being parallel with the user's forearm). Thus, claim 1 is patentable for this additional reason.

Claims 2 and 4-6 depend from claim 1. While these claims contain their own patentable subject matter, claims 2 and 4-6 are allowable at least because of their respective dependencies

For all of the foregoing reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record, and are in proper form for allowance. Accordingly, favorable reconsideration and allowance is respectfully requested. Should any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

The Commissioner is hereby authorized to charge payment for any fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,

  
William J. Knotts, Jr.  
Reg. No. 53,145

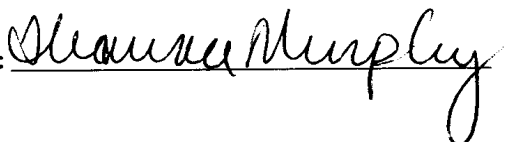
10-23-06  
Date

Perman & Green, LLP  
425 Post Road  
Fairfield, CT 06824  
(203) 259-1800  
Customer No.: 2512

#### **CERTIFICATE OF ELECTRONIC FILING**

I hereby certify that this correspondence is being transmitted electronically on the date indicated below and addressed to Mail Stop RCE, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date: 10/23/06

Signature: 

Shanaa Murphy  
Person Making Deposit